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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**JAMES VINCENT GRULER,**

Plaintiff,

v.

**BANK OF AMERICA N.A. and  
EQUIFAX INFORMATION  
SERVICES, LLC,**

Defendants.

**Case No.:**

**COMPLAINT FOR DAMAGES  
PURSUANT TO THE FAIR CREDIT  
REPORTING ACT, 15 U.S.C. § 1681,  
ET SEQ.**

**JURY TRIAL DEMANDED**

**INTRODUCTION**

1. The United States Congress has found the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair



1 the efficiency of the banking system, and unfair credit reporting methods  
2 undermine the public confidence, which is essential to the continued  
3 functioning of the banking system. Congress enacted the Fair Credit  
4 Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), to insure fair and  
5 accurate reporting, promote efficiency in the banking system, and protect  
6 consumer privacy. The FCRA seeks to ensure consumer reporting agencies  
7 exercise their grave responsibilities with fairness, impartiality, and a respect  
8 for the consumer’s right to privacy because consumer reporting agencies  
9 have assumed such a vital role in assembling and evaluating consumer credit  
10 and other information on consumers. The FCRA also imposes duties on the  
11 sources that provide credit information to credit reporting agencies, called  
“furnishers.”

- 12 2. JAMES VINCENT GRULER (“Plaintiff”), by Plaintiff’s attorneys, brings  
13 this action to challenge the actions of BANK OF AMERICA N.A. (“BoA”)  
14 and EQUIFAX INFORMATION SERVICES, LLC. (“Equifax”) (or jointly  
15 as “Defendants”) with regard to erroneous reports of derogatory and  
16 negative credit information made by Defendants to national reporting  
17 agencies, and for failure of Defendants to properly investigate, and this  
18 conduct caused Plaintiff damages.
- 19 3. Plaintiff makes these allegations on information and belief, with the  
20 exception of those allegations that pertain to Plaintiff, or to Plaintiff’s  
21 counsel, which Plaintiff alleges on personal knowledge.
- 22 4. While many violations are described below with specificity, this Complaint  
23 alleges violations of the statute cited in its entirety.
- 24 5. Unless otherwise stated, all the conduct engaged in by Defendants took  
25 place in Arizona.
- 26 6. Any violations by Defendants were knowing, willful, and intentional, and  
27 Defendant did not maintain procedures reasonably adapted to avoid any such  
28 violation.



1 7. Unless otherwise indicated, the use of Defendants' name in this Complaint  
2 includes all agents, employees, officers, members, directors, heirs,  
3 successors, assigns, principals, trustees, sureties, subrogees, representatives,  
4 and insurers of Defendants' named.

### 5 JURISDICTION AND VENUE

6  
7 8. This Court has federal question jurisdiction because this case arises out of  
8 violation of federal law. 15 U.S.C. §1681 *et seq.*; 28 U.S.C. §1331;  
9 Jurisdiction arises for Plaintiff's supplemental state claims under 28 U.S.C.  
10 §1367.

11 9. This action arises out of Defendants' violations of the Fair Credit Reporting  
12 Act, 15 U.S.C. §§1681-1681(x) ("FCRA").

13 10. Venue is proper in the United States District Court for the District of  
14 Arizona pursuant to 28 U.S.C. §1391(b) because Plaintiff is a resident of  
15 Maricopa County, the State of Arizona and Defendants are subject to  
16 personal jurisdiction in the County of Maricopa, State of Arizona as they  
17 conduct business there, and the conduct giving rise to this action occurred in  
18 Arizona. 28 U.S.C. §1391(b)(2).

### 18 PARTIES

19 11. Plaintiff is a natural person residing in the County of Maricopa, State of  
20 Arizona. In addition, Plaintiff is a "consumer" as that term is defined by 15  
21 U.S.C. § 1681a(c).

22 12. Defendant BoA is a corporation doing business in the State of Arizona.

23 13. Defendant Equifax is a foreign limited liability company doing business in  
24 the State of Arizona.

25 14. Defendant BoA is a furnisher of information as contemplated by 15 U.S.C. §  
26 1681s-2(b) that regularly and in the ordinary course of business furnishes  
27 information to a consumer credit reporting agency.  
28



1 15. Defendant Equifax is a national credit reporting agency, doing business in  
2 Arizona, with a principal place of business in Georgia.

3 **GENERAL ALLEGATIONS**  
4

5 16. At all times relevant, Plaintiff was an individual residing within the State of  
6 Arizona.

7 17. At all times relevant, Defendants conducted business in the State of Arizona.

8 18. On or about January 26, 2010, Plaintiff filed for Bankruptcy in the United  
9 States Bankruptcy Court for the District of Arizona. Plaintiff's case was  
10 assigned Case Number 2:10-bk-01908-GBN (the "Bankruptcy").

11 19. The obligations ("Debt") to each defendant were scheduled in the  
12 Bankruptcy and Defendants, the Creditors, received notice of the  
13 Bankruptcy.

14 20. On or about September 6, 2011, Plaintiff received a Bankruptcy discharge.

15 21. None of the Defendants filed any proceedings to declare their Debt "non  
16 dischargeable" pursuant to 11 U.S.C. § 523 *et seq.*

17 22. Defendants also did not request relief from the "automatic stay" codified at  
18 11 U.S.C. §362 *et seq.* while the Plaintiff's Bankruptcy was pending to  
19 pursue the Plaintiff on any *personal* liability for any of the underlying Debts.

20 23. Accordingly, the Debt to each defendant was discharged through the  
21 Bankruptcy.

22 24. Further, while the automatic stay was in effect during the Bankruptcy, it was  
23 illegal for any of the Defendants to report any post-Bankruptcy derogatory  
24 collection information.

25 25. Defendants' attempt to collect upon their respective Debt by reporting post-  
26 Bankruptcy derogatory information was therefore false or inaccurate and  
27 prohibited by the automatic stay or Discharge.

28 26. Plaintiff subsequently learned that each of the named Defendants reported  
post-Bankruptcy derogatory credit information regarding the obligations on



1 Plaintiff's credit reports, thereby causing erroneous and negative credit  
2 information in Plaintiff's credit files.

3 **Bank of America N.A. Misreported Credit Information**

4 27. In an Equifax credit report dated May 21, 2015, BoA reported the following  
5 inaccurate, derogatory information:

- 6 • Account No. 10704\*\*\*\*: Post-bankruptcy information for the  
7 following dates: April 2010 (Date Major Delinquency First Reported)

8 28. BoA should not have reported derogatory information on Plaintiff's account  
9 after January 26, 2010, because Plaintiff filed for Bankruptcy on January 26,  
10 2010.

11 29. On or about June 3, 2015, Plaintiff disputed BoA's reported information  
12 regarding the Debt pursuant to 15 U.S.C. § 1681I(a)(2) by notifying Equifax,  
13 in writing, of the incorrect and inaccurate credit information furnished by  
14 BoA.

15 30. Specifically, Plaintiff sent a letter, certified, return receipt, to Equifax (the  
16 "Equifax Dispute Letter"), requesting the above inaccurate and incorrect  
17 derogatory information be removed as follows:

- 18 • This account was discharged in my Bankruptcy which was filed on  
19 01/26/2010 and discharged 09/06/2011, bearing case No. 2:10-bk-  
20 01908-GBN in the District for Arizona. There should be no  
21 derogatory reporting after the filing date. Specifically, please remove  
22 the derogatory information for the following post-bankruptcy dates:  
23 April 2010 (Date Major Delinquency First Reported).

24 31. The Equifax Dispute Letter further requested that Equifax:

- 25 • Immediately delete this account and the disputed derogatory  
26 information from my credit report.
- 27 • The discharged debt should be reported with an account balance  
28 of \$0 with a status of "current".
- Further, there should be no post-bankruptcy activity reported on  
this account. The date of last activity on this account should pre-



1 date my bankruptcy filing date, 01/26/2010, since a default on this  
2 account occurred no later than the Bankruptcy filing date.

- 3 • Any post-bankruptcy derogatory information should be
- 4 immediately deleted from my report.
- 5 • If you do not immediately delete this from my credit report,
- 6 please include a 100 word statement in my credit report of all of
- 7 the disputed information contained in this letter regarding this
- 8 account.

9 32. Upon information and belief, Equifax timely notified BoA of Plaintiff's  
10 dispute, but BoA continued reporting derogatory information.

11 33. BoA and Equifax were required to conduct a reinvestigation into this  
12 specific account on Plaintiff's consumer report pursuant to 15 U.S.C.  
13 §1681i.

14 34. On or about June 25, 2015, Plaintiff received notification from Equifax that  
15 BoA and Equifax received notice of Plaintiff's dispute pursuant to 15 U.S.C.  
16 § 1681i(a)(6), and Defendants verified some of the disputed account  
17 information and/or failed to address all of the inaccurate information  
18 disputed by Plaintiff.

19 35. Surprisingly, rather than remove all the derogatory information from  
20 Plaintiff's report, BoA and Equifax simply left derogatory information on  
21 Plaintiff's report. Specifically, BoA and Equifax reported the following  
22 inaccurate, derogatory information:

- 23 • Account #10704\*\*\*\*: Post-bankruptcy information for the following
- 24 dates: April 2010 (Date Major Delinquency First Reported).

25 36. BoA and Equifax, upon receipt of Plaintiff's dispute, failed to conduct an  
26 investigation with respect to the disputed information as required by 15  
27 U.S.C. § 1681s-2(b)(1)(A).

28 37. BoA and Equifax failed to review all relevant information provided by  
Plaintiff in the dispute to Equifax, as required by and in violation of 15  
U.S.C. § 1681s-2(b)(1)(B).



38. Due to BoA and Equifax's failure to investigate, they each further failed to correct and update Plaintiff's information as required by 15 U.S.C. § 1681s-2(b)(1)(E), thereby causing continued reporting of inaccurate information in violation of 15 U.S.C. § 1681-s(2)(b)(1)(C).

39. Plaintiff's continued efforts to correct BoA and Equifax's erroneous and negative reporting of the Debt by communicating Plaintiff's dispute with BOA and Equifax were fruitless.

40. BOA and Equifax's continued inaccurate and negative reporting of the Debt in light of its knowledge of the actual error was willful.

41. BOA and Equifax's inaccurate and negative reporting damaged Plaintiff's creditworthiness.

42. By inaccurately reporting account information relating to the Debt after notice and confirmation of its errors, BOA and Equifax failed to take the appropriate measures as determined in 15 U.S.C. §§ 1681-s(2)(b)(1)(D) and (E).

### FIRST CAUSE OF ACTION

### VIOLATION OF THE FAIR CREDIT REPORTING ACT

### 15 U.S.C. § 1681 *ET SEQ.* (FCRA)

43. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

44. The foregoing acts and omissions constitute numerous and multiple willful, reckless or negligent violations of the FCRA, including but not limited to each and every one of the above-cited provisions of the FCRA, 15 U.S.C § 1681.

45. As a result of each and every willful violation of the FCRA, Plaintiff is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(1); statutory damages pursuant to 15 U.S.C. § 1681n(a)(1); punitive damages as the Court may allow pursuant to 15 U.S.C. §



1 1681n(a)(2); and reasonable attorney's fees and costs pursuant to 15 U.S.C.  
 2 § 1681n(a)(3) from Defendants.

3 46. As a result of each and every negligent noncompliance of the FCRA,  
 4 Plaintiff is entitled to actual damages as the Court may allow pursuant to 15  
 5 U.S.C. § 1681o(a)(1); and reasonable attorney's fees and costs pursuant to  
 6 15 U.S.C. § 1681o(a)(2) from Defendants.

### 7 **PRAYER FOR RELIEF**

8  
 9 Plaintiff respectfully requests the Court grant Plaintiff the following relief  
 10 against Defendants:

### 11 **FIRST CAUSE OF ACTION**

### 12 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**

### 13 **15 U.S.C. § 1681 ET SEQ. (FCRA)**

- 14
- 15 • an award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
  - 16 • award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
  - 17 • an award of punitive damages as the Court may allow pursuant to 15  
 18 U.S.C. § 1681n(a)(2);
  - 19 • award of costs of litigation and reasonable attorney's fees, pursuant to 15  
 20 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1) against Defendants  
 21 for each incident of negligent noncompliance of the FCRA; and
  - 22 • any other relief the Court may deem just and proper.

### 23 **TRIAL BY JURY**

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25 47. Pursuant to the seventh amendment to the Constitution of the United States  
 26 of America, Plaintiff is entitled to, and demands, a trial by jury.

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1 Dated: July 8, 2015

Respectfully submitted,

2  
3 BY: /s/ DAVID J. MCGLOTHLIN  
4 DAVID J. MCGLOTHLIN, ESQ.  
5 ATTORNEY FOR PLAINTIFF  
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